

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

STATE OF MISSOURI

**v.
MAURA CELIS-GARCIA**

RESPONDENT,

APPELLANT.

DOCKET NUMBER WD75582

DATE: February 25, 2014

Appeal From:

Clay County Circuit Court
The Honorable Larry D. Harman, Judge

Appellate Judges:

Division Two: Gary D. Witt, Presiding Judge, Lisa White Hardwick, Judge and Alok Ahuja,
Judge

Attorneys:

Gregory L. Barnes, Jefferson City, MO, for respondent.

Laura Grether Martin, Kansas City, MO, for appellant.

MISSOURI APPELLATE COURT OPINION SUMMARY

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

STATE OF MISSOURI,

RESPONDENT,

v.

MAURA CELIS-GARCIA,

APPELLANT.

No. WD75582

Clay County

Before Division Two Judges: Gary D. Witt, Presiding Judge, Lisa White Hardwick, Judge and Alok Ahuja, Judge

Maura L. Celis-Garcia appeals her conviction in the Circuit Court of Clay County of ten counts of statutory sodomy in the first degree under section 566.062, six counts of child molestation in the first degree under section 566.067, and one count of statutory rape in the first degree under section 566.032 for actions against her two daughters. She asserts three points on appeal. In her first point, she argues that the trial court abused its discretion by failing to grant her second pre-trial motion for an amended bill of particulars. In her second point, she asserts plain error in the admission of K.J.'s and C.J.'s videotaped deposition testimony. In her third point, she asserts plain error and abuse of discretion in the admission of the testimony of several witnesses and the videotaped forensic interview of K.J.

AFFIRMED.

Division Two holds:

(1) There is no error, plain or otherwise, as to the State not producing a second bill of particulars. The State provided an eighteen-month range for an information that included seventeen charges against two victims and activity that was alleged to be in concert with another defendant. There is no contention that the State filed an information that purported to charge Celis-Garcia with a specific conduct during a specific period of time and then secured a conviction during a substantially different period of time. Also, although Celis-Garcia complains broadly on appeal that the time frame did not allow for an alibi defense, she did not assert such a defense at trial, nor did she otherwise establish prejudice. Finally, the trial documents from previous trials were available. Celis-Garcia's rights to due process, to be informed of the charges against her, to present a defense, and to a fair trial were thus not violated.

(2) The trial court did not plainly err in admitting the testimony of the victims in the form of a videotaped deposition taken pursuant to section 491.680. Celis-Garcia raises only bare assertions relating to her previous counsel's loyalties (prior counsel represented both Celis-Garcia and a co-defendant at the time). To the extent Celis-Garcia requests plain-error review in the context of admission of evidence, we note that there is no assertion that the witnesses were not subject to cross-examination or that there was any other procedural irregularity or violation of the statute.

(3) The trial court did not err in admitting the testimony of the victims and the statements of several witnesses who testified about those statements because at least one of the victims was over the age of fourteen as of the date of the third trial. Because the language of the statutes in question (sections 491.075 and 492.304) are clear and unambiguous that the relevant time frame called into question is how old the victim was when the statements were made, there is no error.

Opinion by: Gary D. Witt, Judge

February 25, 2014

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